COMMITTEE REPORT

MADAM PRESIDENT:

The Senate Committee on Tax and Fiscal Policy, to which was referred Senate Bill No. 414, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, line 12, delete "budget and management." and insert "**Management and Budget.**".

Page 1, delete lines 13 through 17.

Delete pages 2 though 6, begin a new paragraph and insert:

"SECTION 3. IC 6-3.1-13-15.5, AS AMENDED BY P.L.4-2005, SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15.5. This section applies to an application proposing to retain existing jobs in Indiana. After receipt of an application, the corporation may enter into an agreement with the applicant for a credit under this chapter if the corporation determines that all the following conditions exist:

(1) The applicant's project will retain existing jobs performed by the employees of the applicant in Indiana.

(2) The applicant provides evidence that there is at least one (1) other competing site outside Indiana that is being considered for the project or for the relocation of jobs.

(3) A disparity is identified, using the best available data, in the projected costs for the applicant's project in Indiana compared with the costs for the project in the competing site.

(4) The applicant is engaged in research and development,

manufacturing, or business services, ~~(as defined in~~ **according to** the ~~Standard Industrial Classification~~ **NAICS** Manual of the United States Office of Management and Budget.

(5) The average compensation (including benefits) provided to the applicant's employees during the applicant's previous fiscal year exceeds:

(A) for an application submitted before January 1, 2006, the average compensation paid during that same period to all employees in the county in which the applicant's business is located by at least five percent (5%); **or**

(B) for an application submitted after December 31, 2005, the amount specified by the calculation associated with one (1) of the following descriptions that characterizes the number of businesses in the NAICS industry sector to which the applicant's business belongs:

(i) If there is more than one (1) business in the same NAICS industry sector in the county in which the applicant's business is located, determine the average compensation paid during that same period to all employees working in the same NAICS industry sector in the county in which the applicant's business is located multiplied by one hundred five percent (105%).

(ii) If the applicant's business is the only business in the same NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in the same NAICS industry sector in Indiana, determine the average compensation paid during that same period to all employees working in the NAICS industry sector throughout Indiana multiplied by one hundred five percent (105%).

(iii) If the applicant's business is the only business in the same NAICS industry sector in Indiana, determine the compensation for that same period corresponding to the federal minimum wage multiplied by two hundred percent (200%).

(6) The applicant employs at least two hundred (200) employees in Indiana.

(7) The applicant has prepared a plan for the use of the credits

under this chapter for:
(A) investment in facility improvements or equipment and machinery upgrades, repairs, or retrofits; or
(B) other direct business related investments, including but not limited to training.
(8) Receiving the tax credit is a major factor in the applicant's decision to go forward with the project, and not receiving the tax credit will increase the likelihood of the applicant reducing jobs in Indiana.
(9) Awarding the tax credit will result in an overall positive fiscal impact to the state, as certified by the budget agency using the best available data.
(10) The applicant's business and project are economically sound and will benefit the people of Indiana by increasing or maintaining opportunities for employment and strengthening the economy of Indiana.
(11) The communities affected by the potential reduction in jobs or relocation of jobs to another site outside Indiana have committed at least one dollar and fifty cents ($1.50) of local incentives with respect to the retention of jobs for every three dollars ($3) in credits provided under this chapter. For purposes of this subdivision, local incentives include, but are not limited to, cash grants, tax abatements, infrastructure improvements, investment in facility rehabilitation, construction, and training investments.
(12) The credit is not prohibited by section 16 of this chapter.

SECTION 4. IC 6-3.1-13-17, AS AMENDED BY P.L.4-2005, SECTION 74, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. In determining the credit amount that should be awarded to an applicant under section 15 of this chapter that proposes a project to create jobs in Indiana, the corporation ~~shall~~ **may** take into consideration the following factors:
(1) The economy of the county where the projected investment is to occur.
(2) The potential impact on the economy of Indiana.
(3) The incremental payroll attributable to the project.
(4) The capital investment attributable to the project.
(5) The amount the average wage paid by the applicant exceeds

the average wage paid:

(A) within the county in which the project will be located, **in the case of an application submitted before January 1, 2006; or**

(B) in the case of an application submitted after December 31, 2005:

(i) to all employees working in the same NAICS industry sector in the county in which the applicant's business is located, if there is more than one (1) business in the same NAICS industry sector in the county in which the applicant's business is located;

(ii) to all employees working in the same NAICS industry sector in Indiana in which the applicant's business is located, if the applicant's business is the only business in the same NAICS industry sector in the county in which the applicant's business is located but there is more than one (1) business in the same NAICS industry sector in Indiana; or

(iii) to all employees working in the same county as the county in which the applicant's business is located, if there is no other business in Indiana in the same NAICS industry sector.

(6) The costs to Indiana and the affected political subdivisions with respect to the project.

(7) The financial assistance and incentives that are otherwise provided by Indiana and the affected political subdivisions.

As appropriate, the corporation shall consider the factors in this section to determine the credit amount awarded to an applicant for a project to retain existing jobs in Indiana under section 15.5 of this chapter. In the case of an applicant under section 15.5 of this chapter, the corporation ~~shall~~ **may** consider the magnitude of the cost differential between the projected costs for the applicant's project in the competing site outside Indiana and the projected costs for the applicant's project in Indiana.

SECTION 5. IC 6-3.1-13-21, AS AMENDED BY P.L.4-2005, SECTION 79, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. (a) If a pass through entity does not have state income tax liability against which the tax credit may be applied, a shareholder or partner of the pass through entity is entitled to a tax credit equal to:

(1) the tax credit determined for the pass through entity for the taxable year; multiplied by

(2) the percentage of the pass through entity's distributive income to which the shareholder or partner is entitled.

(b) The credit provided under subsection (a) is in addition to a tax credit to which a shareholder or partner of a pass through entity is otherwise entitled under a separate agreement under this chapter. A pass through entity and a shareholder or partner of the pass through entity may not claim more than one (1) credit under the same agreement.

(c) ~~This~~ Subsection **(d)** applies:

(1) only to a pass through entity that is a limited liability company or a limited liability partnership owned wholly or in part by an electric cooperative incorporated under IC 8-1-13; **and**

(2) if, at the request of ~~a~~ **the** pass through entity, ~~if~~ the corporation finds that the amount of the average wage to be paid by the pass through entity will be at least double the average wage paid: ~~within~~

(A) in the county in which the project will be located, **in the case of an application submitted before January 1, 2006; or**

(B) to all employees working in the same NAICS industry sector in the county in which the project will be located, in the case of an application submitted after December 31, 2005.

(d) The corporation may determine that:

(1) ~~the~~ **a** credit shall be claimed by the pass through entity **described in subsection (c);** and

(2) if the credit exceeds the pass through entity's state income tax liability for the taxable year, the excess shall be refunded to the pass through entity.

If the corporation grants a refund directly to a pass through entity under this subsection, the pass through entity shall claim the refund on forms prescribed by the department of state revenue.

SECTION 6. IC 6-3.1-13-27, AS AMENDED BY P.L.4-2005, SECTION 85, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. (a) Subject to all other requirements of this chapter, the corporation may award a tax credit under this chapter to a nonprofit organization that is a high growth company with high skilled jobs (as defined in IC 4-4-10.9-9.5) if:

(1) the nonprofit organization:

(A) is a taxpayer (as defined in section 10 of this chapter); and

(B) meets all requirements of this chapter; and

(2) all of the following conditions are satisfied:

(A) The wages of at least seventy-five percent (75%) of the organization's total workforce in Indiana must be equal to at least two hundred percent (200%) of the average ~~county~~ wage **paid:**

(i) in the county in which the project will be located, as determined by the corporation, **in the case of an application submitted before January 1, 2006; or**

(ii) to all employees working in the same NAICS industry sector in the county ~~where~~ **in which** the project ~~for which the credit is granted~~ will be located, **in the case of an application submitted after December 31, 2005.**

(B) The organization must make an investment of at least fifty million dollars ($50,000,000) in capital assets.

(C) The affected political subdivision must provide substantial financial assistance to the project.

(D) The incremental payroll attributable to the project must be at least ten million dollars ($10,000,000) annually.

(E) The organization agrees to pay the ad valorem property taxes on the organization's real and personal property that would otherwise be exempt under IC 6-1.1-10.

(F) The organization does not receive any deductions from the assessed value of the organization's real and personal property under IC 6-1.1-12 or IC 6-1.1-12.1.

(G) The organization pays all of the organization's ad valorem property taxes to the taxing units in the taxing district in which the project is located.

(H) The project for which the credit is granted must be located in a county having a population of more than one hundred eighty thousand (180,000) but less than one hundred eighty-two thousand seven hundred ninety (182,790).

(b) Notwithstanding section 6(a) of this chapter, the corporation may award credits to an organization under subsection (a) if:

(1) the organization met all other conditions of this chapter at the time of the applicant's location or expansion decision;
(2) the applicant is in receipt of a letter from the department of commerce stating an intent to pursue a credit agreement; and
(3) the letter described in subdivision (2) is issued by the department of commerce not later than January 1, 2000.".

(Reference is to SB 414 as printed February 15, 2005.)

and when so amended that said bill do pass.

Committee Vote: Yeas 8, Nays 0.

____

Kenley **Chairperson**